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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,682

12/14/2005

Wilhelmus Franciscus Johanne Fontijn

NL030687US1

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01/04/2010

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SCHNEE, HAL W

ART UNIT

PAPER NUMBER

2186

MAIL DATE

DELIVERY MODE

01/04/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/560,682</p>	<p>Applicant(s) FONTIJN ET AL.</p>	
	<p>Examiner HAL SCHNEE</p>	<p>Art Unit 2186</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-13, 15-29 and 31.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☒ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). 11 November 2009
13. ☐ Other: _____.

/Shane M Thomas/
Primary Examiner, Art Unit 2186

Continuation of 3. NOTE: The amendments introduce new limitations, requiring additional search and consideration.

Regarding the amendments to Claims 1, 21, and 26, the examiner agrees that they overcome the rejections under the first and second paragraphs of 35 U.S.C. 112. However, they also introduce a new issue under 35 U.S.C. 112 second paragraph--the new limitations recite "... to define a not necessarily contiguous space associated with the partition ..." However, the present claims later recite both (at least) a first partition and a second partition. So the limitation of "the partition" is indefinite because it is unclear which partition or partitions are being modified by the new limitations. There is also a lack of antecedent basis since "the partition" is recited before a first partition or a second partition are mentioned in the present claims. The examiner suggests placing the new limitation at the end of the present claims, and clarifying to which partition(s) it applies.

Regarding the content of the new limitation, the examiner notes that the recitation of "a not necessarily contiguous space" is a weak statement that does not carry much patentable weight. Since the limitation does not require a non-contiguous space for the fragment allocation, prior art which only supports a contiguous space would teach the new limitation. The examiner also notes that Fontijn (WO 01/95331, cited by the applicant in the IDS filed 11 November 2009 and published more than one year prior to the effective filing date of the present application) appears to teach a UDF-format disk in which partitions are defined during use and may be composed of non-contiguous space. Page 3, lines 11-20, for example, explain that neither the shape nor size nor physical mapping of the data sub-regions (i.e. partitions) is formally set, and fig. 1 appears to show partitions composed of non-contiguous physical spaces.

The examiner also notes that the new limitation as claimed is not as specific as the applicant describes in the remarks. Pages 12-13 of the remarks, for example, state "More particularly, the invention allows extending the partitions by modifying the allocation of fragments. Advantageously, a flexible size and interleaved partitions are accommodated, while at the same time each partition has its respective, different data format." However, the present claims make no mention of modifying an allocation of fragments. The present claims are also not explicit about the relationship between types of content and formats of the partitions; they state that the first partition includes content of a first type and the second partition includes content of a second type, and further state that the record carrier includes multiple formats, but there is little connection among formats, content types, and partitions, nor are these explicitly connected to fragment allocation.

The examiner suggests that the applicant redraft the amendment to avoid the potential rejections under 35 U.S.C. 112, and to include additional detail to distinguish the present claims from the prior art of record, including the reference to Fontijn in the IDS.

/Hal Schnee/ 30 December 2009